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REPORT
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OFFICE OF ENVIRONMENTAL QUALITY AND COUNCIL ON ENVIRONMENTAL QUALITY AUTHORIZATIONS FOR FISCAL YEARS 1987, 1988, AND 1989

APRIL 16, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 4353]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 4353) to authorize appropriations for the operations of the Office of Environmental Quality and the Council on Environmental Quality during fiscal years 1987, 1988, and 1989, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF LEGISLATION

The purpose of the legislation is to extend the authorization for appropriations under the Environmental Quality Improvement Act of 1970 (EQIA) to provide for the operations of the Office of Environmental Quality (OEQ) and the Council on Environmental Quality (CEQ). To accomplish this purpose, the legislation provides for the continuation of a $480,000 authorization in each of fiscal years 1986, 1987, 1988, and 1989. This authorization, together with a continuing $1 million authorization under the National Environmental Policy Act (NEPA), will provide a total authorization of $1,480,000 for CEQ and OEQ in each of the next 3 fiscal years.

LEGISLATIVE BACKGROUND

H.R. 4353 was introduced on March 10, 1986, by Mr. Breaux and Mr. Young of Alaska. The Subcommittee on Fisheries and Wildlife Conservation and the Environment held a hearing on the legisla-

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tion on March 12, 1986. The Chairman of CEQ, A. Alan Hill, testified on behalf of the Administration. Testimony was provided in support of an authorization of $565,000 for the Office of Environmental Quality for fiscal years 1987, 1988, and 1989. This level of funding would provide for a full complement of 13 full-time equivalents (FTE's) for the Council and the Office.

After careful consideration of the testimony presented at the hearing and additional information received, the Subcommittee on March 19, 1986, reported H.R. 4353 to the full Committee by unanimous voice vote On April 9, 1986, the full Committee unanimously reported H.R. 4353, as introduced, to the House of Representatives.

Background and Need

The Environmental Quality Improvement Act of 1970 (EQIA) created the Office of Environmental Quality, the purpose of which was to provide staff support for the Council on Environmental Quality (CEQ). The Council previously had been established by the National Environmental Policy Act (NEPA). The Council consists of three members appointed by the President, with the advice and consent of the Senate, in accordance with criteria set forth in Section 202 of NEPA. The EQIA established the Office of Environmental Quality in the Executive Office of the President and made the Chairman of CEQ the Director of the Office of Environmental Quality. Since its inception, the Council has subsumed the Office of Environmental Quality and has operated as a single entity under both statutes. However, the EQIA provides the Council with its staff and brings with it other important responsibilities and authorities. Thus, it is the Office of Environmental Quality for which H.R. 4353 would provide funding.

The fundamental consideration underlying the creation of the Council by Congress was a concern for environmental quality. In the hearings held before the enactment of NEPA, Congress learned that almost all Federal activities affected the quality of the nation's environment in one way or another and that only rarely did the agencies consider the effects of their activities on the environment before making decisions and taking action. Thus, in Title I of NEPA, Congress established a national environmental policy. That policy explicitly recognizes that conflicting human uses of living and non-living resources require the balancing of policy interests. One of CEQ's important responsibilities is to aid the President and the Executive Office of the President in striking a balance among competing priorities. To implement the policy declared by NEPA, Congress established certain mandatory procedural requirements, to be followed by all Federal agencies, and directed CEQ to oversee the implementation of the Act.

Title II of NEPA created the Council on Environmental Quality. Its principal statutory responsibilities are:

To advise the President on environmental policies and issues and to provide recommendations which foster and promote the improvement of environment quality;

To oversee the implementation of NEPA by Federal agencies;

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To review and appraise Federal programs affecting the environment;

To analyze important environmental conditions and trends;

To assist and advise the President in the preparation of the Annual Report to the Congress on environmental conditions, trends and activities;

To undertake investigations, studies, surveys, research, and analyses relating to environmental issues; and

To undertake other duties and responsibilities as directed by the President.

The Council's duties under NEPA were elaborated by Executive Order 11514, issued in March, 1970. The Executive Order requires CEQ to:

Recommend to the President policies and programs to achieve more efficient protection and enhancement of environmental quality;

Recommend to the President and to Federal agencies priorities among programs designed for the control of pollution and for the enhancement of the environment;

Determine the need for new policies and new programs dealing with environmental problems not being adequately addressed;

Advise and assist the President and Federal agencies in achieving international cooperation for dealing with environmental problems, under the foreign policy guidance of the Secretary of State;

Coordinate Federal programs related to environmental quality;

Assist the President in preparing the annual Environmental Quality Report;

Issue such other instructions to agencies and request such reports and other information from them as may be required to carry out the Council's responsibilities under the Act; and

Issue guidelines to Federal agencies for implementing the environmental impact statement requirements of NEPA.

In May, 1977, by Executive Order 11991, President Carter amended Executive Order 11514 and directed CEQ "to issue regulations to Federal agencies for the implementation of the procedural provisions of the Act." The Executive Order stated that the "regulations will be designed to make the environmental impact statement process more useful to decisionmakers and the public, and to reduce paperwork.* * *" Executive Order 11991 also directed the Council to establish procedures for implementing NEPA and Section 309 of the Clean Air Act under which agencies refer environmental disputes to CEQ.

Prior to 1982, CEQ regularly provided the President, White House staff, and other agencies with environmental policy analyses and advice on environmental issues. CEQ developed a system for implementation of NEPA, prepared annual reports for the President on the state of the environment, and prepared Presidential environmental messages. In addition, CEQ prepared special environmental reports such as "the Global 2000 Report to the President (1980). Further, CEQ provided mediation of interagency controver-

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sies resulting from proposed Federal actions with significant potential for serious environmental impacts.

While its primary mandate has not changed over the years, CEQ's role and its conditions have changed radically in recent years. Budget reductions have decreased the size of its staff from 49 in 1981 to a current permanent staff of only 2, making substantive contributions or policy advice exceedingly difficult.

Reductions in funding levels in recent years have had major implications with regard to CEQ's performance of its statutory mission and the significance of its contribution to the nation's environmental quality. The recent accomplishments of the Council have been described as modest at best. The Council has issued a memorandum to the heads of Federal agencies to provide guidance on certain sections of its NEPA regulations, including the scoping process, categorical exclusions, contracting provisions, selection of alternatives to licensing and permitting situations, and worst case analysis. In addition, the Council is involved in several studies and reports including private sector use of government-generated information, a feasibility study of a water resource research center, deforestation, acid rain, and environmental monitoring.

With regard to reduced staff levels, there is concern by the Committee that CEQ will not be able to continue to discharge its responsibilities for promulgating regulations and guidance covering the preparation of environmental impact statements. The role of the Council has been largely limited to advising agencies regarding their compliance with NEPA regulations. The Committee is pleased though to note that the proposed increase in the Administration's fiscal year 1987 budget includes new staff assignments to address this concern—doing the necessary follow-up to oversee implementation of the National Environmental Policy Act.

Pursuant to NEPA, CEQ is authorized at a level of $1 million for each fiscal year. The present EQIA authorization of $480,000 which expires at the end of fiscal year 1986 is in addition to the NEPA authorization. CEQ was appropriated $700,000 for fiscal year 1986.

Section-by-Section

The following analysis of H.R. 4353 is accompanied by discussion.

H.R. 4353 amends Section 205(d) of the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4374(d)) by striking out "and September 30, 1986" and inserting in lieu thereof "1986, 1987, 1988, and 1989." The bill simply continues the present fiscal year 1986 authorization of $480,000 for fiscal years 1987, 1988, and 1989.

The Committee feels that this authorization level, together with the continuous annual authorization of $1 million under NEPA, provides the necessary level of funding to secure additional qualified permanent staff to meet the statutory requirements of NEPA and EQIA.

Cost of Legislation

Pursuant to clause 7 of rule XIII of the House of Representatives, the Committee estimates that the cost of H.R. 4353 will be $480,000 for each of the fiscal years 1987, 1988, and 1989.

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Inflationary Impact Statement

With respect to the requirements of clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 4353 would have no significant inflationary impact upon prices and costs in the operation of the national economy.

Compliance With Clause 2(l)(3) of Rule XI

In compliance with clause 2(l)(3) of rule XI of the House of Representatives:

(a) The Committee on Merchant Marine and Fisheries' Subcommittee on Fisheries and Wildlife Conservation and the Environment held a hearing on H.R. 4353 on March 12, 1986.

(b) The enactment of H.R. 4353 will extend existing budget authority of $480,000 in each of the fiscal years 1987, 1988, and 1989.

(c) The Committee on Merchant Marine and Fisheries did not receive a report from the Committee on Government Operations pursuant to clause 4(c)(2) of Rule X of the House of Representatives.

(d) A letter was received from the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974 in reference to H.R. 4353 and reads as follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 10, 1986.

Hon. Walter B. Jones,
Chairman, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 4353, a bill to authorize appropriations for the operations of the Office of Environmental Quality and the Council on Environmental Quality during fiscal years 1987, 1988, and 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Edward Gramlich,
(For Rudolph G. Penner, Director).

Congressional Budget Office Cost Estimate

1. Bill number: H.R. 4353.

2. Bill title: A bill to authorize appropriations for the operations of the Office of Environmental Quality and the Council on Environmental Quality during fiscal years 1987, 1988, and 1989.

3. Bill status: As ordered reported by the House Committee on Merchant Marine and Fisheries, April 9, 1986.

4. Bill purpose: This bill authorizes the appropriation of $480,000 for each of the fiscal years 1987, 1988, and 1989 for the Office of

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Environmental Quality (OEQ) and the Council on Environmental Quality (CEQ). The 1986 appropriation for the OEQ and CEQ is currently $670,000, and the President has requested $820,000 for 1987.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1987	1988	1989	1990	1991
Authorization Level	0.5	0.5	0.5		
Estimated Outlays	0.5	0.5	0.5		

The costs of this bill fall within budget function 800.

Basis of estimate: CBO assumes that the bill will be enacted and that the full amounts authorized will be appropriated for 1987, 1988, and 1989. The estimated outlays are based on historical spending patterns.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: James Hearn.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

Departmental Reports

The Committee on Merchant Marine and Fisheries received no departmental reports in regards to H.R. 4353.

Changes in Existing Law

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

42 U.S.C. 4374

§ 4374. Authorization of appropriations

There are hereby authorized to be appropriated for the operations of the Office of Environmental Quality and the Council on Environmental Quality not to exceed the following sums for the following fiscal years which sums are in addition to those contained in Public Law 91-190:

(a) $2,126,000 for the fiscal year ending September 30, 1979.

(b) $3,000,000 for each of the fiscal years ending September 30, 1980, and September 30, 1981.

(c) $44,000 for the fiscal years ending September 30, 1982, 1983, and 1984.

(d) $480,000 for each of the fiscal years ending September 30, 1985 [and September 30, 1986.] *, 1986, 1987, 1988, and 1989.*

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